

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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**In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE LITIGATION**

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) **MDL No. 1456**  
) **Master File No. 01-CV-12257-PBS**  
) **Subcategory Case No. 06-11337**  
)

**THIS DOCUMENT RELATES TO:**

) **Hon. Patti B. Saris**  
)

*State of California ex rel. Ven-A-Care of the Florida  
Keys, Inc. v. Abbott Labs, Inc. et al.,*  
Civil Action No. 03-11226-PBS

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**CORRECTED DECLARATION OF PHILIP D. ROBBEN IN OPPOSITION  
TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

**PHILIP ROBBEN** declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel to Mylan Inc., Mylan Pharmaceuticals Inc., Dey L.P. and Dey, Inc. I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.

2. I make this Declaration in Plaintiff State of California’s Motion for Partial Summary Judgment.

3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Defendants, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.

4. Attached hereto as Exhibit 51 is a true and correct copy of: Department of Health and Human Services, Office of the Inspector General (“HHS-OIG”), *Medicaid Action Transmittal No. 84-12* (1984) (06-40216).

5. Attached hereto as Exhibit 52 is a true and correct copy of: HHS-OIG, *Physicians' Costs for Chemotherapy Drugs* (Nov. 1992) (A-02-91-01049).
6. Attached hereto as Exhibit 53 is a true and correct copy of: HHS-OIG, *Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products* (Aug. 1997) (A-06-97-00011).
7. Attached hereto as Exhibit 54 is a true and correct copy of: HHS-OIG, *Medicaid Pharmacy - Actual Acquisition Cost of Generic Prescription Drug Products* (Mar. 2002) (A-06-01-00053).
8. Attached hereto as Exhibit 55 is a true and correct copy of: HHS-OIG, *Medicaid Pharmacy – Additional Analyses of the Actual Acquisition Cost of Prescription Drug Products* (Sept. 2002) (A-06-02-00041).
9. Attached hereto as Exhibit 56 is a true and correct copy of: HHS-OIG, *State Strategies to Contain Medicaid Drug Costs* (Oct. 2003) (OEI-05-00680).
10. Attached hereto as Exhibit 57 is a true and correct copy of: a printout from the Department of Health and Human Services website titled “Pennsylvania Department of Public Welfare, DAB No. 1315 (1992), available at <http://www.hhs.gov/dab/decisions/dab1315.html>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 21, 2009.

/s/Philip D. Robben  
Philip D. Robben

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on December 21, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/Philip D. Robben

Philip D. Robben